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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,093	04/01/2005	Francis Borrieres	N48.2-11807-US01	7504
490 7590 12/13/2007 VIDAS, ARRETT & STEINKRAUS, P.A. SUITE 400, 6640 SHADY OAK ROAD EDEN PRAIRIE, MN 55344			EXAMINER LE, UYEN CHAU N	
			ART UNIT 2887	PAPER NUMBER
			MAIL DATE 12/13/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/530,093

Applicant(s)

BORRIERES ET AL.

Examiner

Uyen-Chau N. Le

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Prelim. Amdt/Amendment*

1. Receipt is acknowledged of the Amendment filed 10/01/2007.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothfjell (US 3805238 A) in view of Constant et al (US 20030154446 A1).

Re claims 10-15: Rothfjell discloses an identification and authentication process that is indirect and does not employ a specific reader, for identifying an object (i.e., an individual) with the assistance of a three-dimensional identifier attached to the review object/person, the identifier

presenting heterogenities [4-12] distributed in a random manner within a transparent material rendering the latter difficult or impossible to reproduce (col. 4, lines 23-42), the process characterized in that: a stereoscopic vision of the human eye is utilized to verify the three-dimensional appearance and confirm the authenticity of the three-dimensional identifier, and the identification or reading is made by visual comparison of a two-dimensional first image of the identifier stored in a database (i.e., in the data processing machine), and the three-dimensional identifier itself (col. 5, lines 6-13), wherein a second image [1-3] similar to the two-dimensional image of the identifier is prepared, the second image [1-3] is physically associated with the three-dimensional identifier, a first visual comparison is carried out between the three-dimensional identifier and the second image [1-3], a second visual comparison (D) is carried out between the first image (2) and similar representation in the second image (col. 4, lines 43+), wherein a call number and/or a password is associated with the identifier in order to facilitate and secure access to the database (col. 6, lines 45-67).

Rothfjell further discloses the image associated with the identifier is stored in a data processing machine (fig. 3; col. 2, lines 28-34 and col. 4, lines 43+), but is silent with respect to the database is accessible by a network, wherein the network is a telecommunication network, respectively.

Constant et al teaches image files stored in a database is accessible by a telecommunication network (claim 23).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the telecommunication network of Constant et al into the system as taught by Rothfjell in order to provide Rothfjell with an advance system wherein the

system can be operated remotely from the database, which would reduce the space occupancy of the on-site system wherein the database hardware/storage can be disposed/located at a remote location (e.g., central server, host, etc.), and thus an obvious expedient.

***Response to Arguments***

5. Applicant's arguments filed 10/01/2007 have been fully considered but they are not persuasive.

6. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., objects which can be identical (such as industrial products)) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

7. In response to the Applicant's argument with respect to "... In the claimed invention the identification and authentication is achieved thanks to a 3D identifier that is attached to the review object and presents heterogeneities distributed in a random manner within a transparent material. Rothfjell does not attach such an identifier, and does not teach to or suggest to attach and use such an identifier..." (p. 6, 3<sup>rd</sup> paragraph), the Examiner respectfully disagrees and requests the Applicant to further review Rothfjell wherein the identifier presenting heterogeneities [4-12] distributed in a random manner within a transparent material rendering the latter difficult or impossible to reproduce has been disclosed in col. 4, lines 23-42. Accordingly, the claimed limitation, given the broadest reasonable interpretation, Rothfjell meets the claimed invention (see the rejection above).

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen-Chau N. Le whose telephone number is 571-272-2397. The examiner can normally be reached on M-F 7:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Uyen-Chau N. Le  
Primary Examiner  
Art Unit 2876

December 10, 2007